

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

DARLENE TRAMMELL,

Plaintiff,

v.

RECEIVABLE MANAGEMENT
SOLUTIONS, INCORPORATED, et
al.,

Defendants.

CIVIL ACTION NO.
03-AR-0450-S

FILED

03 MAR 24 PM 1:56

U.S. DISTRICT COURT
N.D. OF ALABAMA

ENTERED

MAR 24 2003

MEMORANDUM OPINION

It would be an ultimate irony and an intolerable anomaly to allow defendant, Sherman Acquisitions, LP ("Sherman"), to join in the notice of removal while denying the efficacy of the service of a summons and complaint upon it more than thirty (30) days before the notice of removal was filed. The burden of proving the requisites of removal jurisdiction is upon the removing defendants. The court in this case finds that the removing defendants have not met the burden of proving that Sherman was not served with process on January 23, 2003, more than thirty (30) days before the notice of removal on February 27, 2003. A copy of the record of the Circuit Court of Jefferson County, Alabama, Bessemer Division, reflecting service on the three defendants, and presumptively valid, is attached hereto as Exhibit "A".


The removing defendants attempt to explain the failure of defendant, Campo Electronics, Appliances & Computers, Inc. ("Campo") to consent to the removal after being served on January

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22, 2003, also as reflected in Exhibit "A", by saying that Campo is "a defunct corporation," whatever that means. If Campo is in bankruptcy, that fact would, of course, act as a automatic stay and would constitute a valid excuse for Campo's not having joined in or consented to the removal. A served defendant merely being hard to find by its fellow defendants does not excuse the removing defendants from gathering up **all** served defendants and obtaining their timely joinder or consent to the removal.

For these reasons, the court agrees with plaintiff's motion to remand, which will be granted by separate order.

DONE this 24th day of March, 2003.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Receivables Management Solutions.
Inc.
992 South Robert Street
West St. Paul, Minnesota 55118

2. Article Number

(Transfer from service label)

CV03-8 D1

7099 3400 0008 3747 3804

PS Form 3811, August 2001

Domestic Return Receipt

102505-02-M-15

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Hawn Hawn* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Campe Electronics, Appliances &
Computers, Inc.,
c/o The Corporation Company
2000 Interstate Park Drive, Ste 204
Montgomery, AL 36109

2. Article Number

(Transfer from service label)

CV03-8 D2

7099 3400 0008 3747 3808

PS Form 3811, August 2001

Domestic Return Receipt

102505-02-M-15

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *DM Langley* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sherman Acquisitions, LP
c/o Alegis Group, LP
Paracorp Incorporated
2724 10th Avenue
Huntsville, AL 35805

2. Article Number

(Transfer from service label)

CV03-8 D3

7099 3400 0008 3747 3831

PS Form 3811, August 2001

Domestic Return Receipt

102505-02-M-15

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Tina Holder* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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JUDGE: DAN C. KING III

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
CIRCUIT CIVIL

IN THE CIRCUIT COURT OF JEFF-BESMR COUNTY

DARLENE TRAMMELL VS RECEIVABLE MANAGEMENT SOLUTIONS, INC. ET AL
FILED: 01/06/2003 TYPE: INVASION OF PRIVACY TYPE TRIAL: NON-JURY TRACK:

DATE1: CA: CA DATE:
DATE2: AMT: 5.00 PAYMENT:
DATE3: *****

PLAINTIFF 001: TRAMMELL DARLENE

ATTORNEY: THOMASON BILL
TH0006 PO BX 627

AL 00000-0000
PHONE: (205)000-0000
ENTERED: 01/17/2003 ISSUED: TYPE: BESSEMER, AL 35021
SERVED: ANSWERED: JUDGEMENT: (205)428-0702

DEFENDANT 001: RECEIVABLES MANAGEMENT SOLUTIONS, INC.
492 SOUTH ROBERT ST ATTORNEY:

WEST ST PAUL, MN 55118-0000
PHONE: (205)000-0000
ENTERED: 01/17/2003 ISSUED: TYPE:
SERVED: ANSWERED: JUDGEMENT:

DEFENDANT 002: CAMPO ELECTRONICS, APPLIANCES & COMPUTERS, INC.
%THE CORPORATION COMPANY ATTORNEY:
2000 INTERSTATE PK DR 204
MONTGOMERY, AL 36109-0000
PHONE: (205)000-0000

ENTERED: 01/17/2003 ISSUED: TYPE:
SERVED: ANSWERED: JUDGEMENT:

DEFENDANT 003: SHERMAN ACQUISITIONS, LP
% ALEGIS GROUP, LP ATTORNEY:
2724 10TH AVE
HUNTSVILLE, AL 35805-0000
PHONE: (205)000-0000

ENTERED: 01/17/2003 ISSUED: TYPE:
SERVED: ANSWERED: JUDGEMENT:

1/6/03 Complaint Cover Sheet

1/6/03 Interrogatories to Defendant Receivables Management Solutions, Incorporated

1/17/03 Summons, Complaint and Interrogatories issued by Cert Mail to:

- 1) Receivables Management Solutions, Inc. Ex 1/28/03 atty Notified
- 2) Campo Electronics, Appliances & Computers, Inc. Ex 1/22/03 atty Notified
- 3) Sherman Acquistitions, LP Ex 1/23/03 atty Notified

3/28/03 Notice to Circuit Clerk on Filing Notice of Removal

SP
dd

4K 01/17/2003

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